

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Modification of Mail Classification
Schedule for International Commercial
Plus Pricing

Docket No. MC2013-44

ORDER APPROVING MINOR CLASSIFICATION CHANGE
CONCERNING CERTAIN COMMERCIAL PLUS PRICING CATEGORIES

(Issued April 22, 2013)

I. INTRODUCTION

On March 29, 2013, the Postal Service pursuant to 39 C.F.R. §§ 3020.90 and 3020.91, filed notice of minor classification changes concerning the volume threshold for qualifying for certain Commercial Plus pricing categories.¹ For the reasons stated below, the Commission approves the proposed change.

¹ Notice of Minor Classification Change, March 29, 2013 (Notice). The Notice includes an Attachment with proposed revisions to the Mail Classification Schedule (MCS). See *also* Order No. 1689, Notice and Order Concerning Minor Classification Change Related to Certain Commercial Plus Pricing Categories, April 2, 2013.

II. PROPOSAL

Description of classification changes. The Postal Service states that the proposed minor changes will allow customers to use mail tendered under an Outbound International Negotiated Service Agreement (NSA) to satisfy the \$100,000 per year commitment required to qualify for Commercial Plus pricing. *Id.* at 1. The proposal affects the following Commercial Plus pricing categories for competitive mail services: First-Class Package International Service (FCPIS); Priority Mail International (PMI); Express Mail International (EMI); and Global Express Guaranteed (GXG). *Id.*

Rationale. The Postal Service states that it has not yet incorporated First-Class Package International Service (FCPIS) into any of its Outbound International NSA products, so some customers that commit to tendering more than \$100,000 per year via an Outbound International NSA are not receiving discounted rates for FCPIS. *Id.* The Postal Service states: “This minor classification change removes the potential for redundant threshold requirements by allowing the mail tendered under an International NSA to satisfy the \$100,000 per year commitment required to access Commercial Plus pricing.” *Id.* at 1-2.

Affected MCS provisions. The Postal Service proposes to effectuate the proposed change by adding a sentence to existing text addressing the Commercial Plus price category in MCS § 2305.4 (for Outbound International Expedited Services -- Global Express Guaranteed and Express Mail International); § 2315.4 (for Outbound Priority Mail International); and § 2335.4 (for Outbound Single-Piece First –Class Package International Service).² The sentence reads: “Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the \$100,000 per year commitment.” *Id.* Attachment at 2-4. The Postal Services also

² The citations to MCS provisions in this Order, unless indicated otherwise, are to the Commission’s draft MCS, which is dated 4/1/2013 and posted on the Commission’s website. The Postal Service refers to MCS § 2335.4 as MCS § 2305.4. Notice, Attachment at 2.

proposes minor editorial revisions affecting the order in which services are listed in two MCS sections.³

Effective date. The Postal Service states that it intends to make the changes effective as soon as this docket is concluded. Notice at 2.

Consistency with 39 U.S.C. § 3642. The Postal Service states that it believes the changes are consistent with 39 U.S.C. § 3642 and should be incorporated by the Commission into the MCS. *Id.*

III. COMMENTS

The Public Representative filed comments.⁴ No other comments were received. While concluding that the Notice satisfies the “letter of the filing requirements under sections 3020.90 and 3020.91,” the Public Representative asserts that the proposal provides an unfair advantage to mailers of existing NSA contracts to the detriment of mailers not large enough to negotiate a customized NSA. *Id.* In addition, she argues that the incentive, enabling NSA mailers to qualify for Commercial Plus pricing, is unnecessary because “it encourages mailer behavior that would have occurred anyway.” *Id.* The other is that it is unfair to mailers not large enough to qualify for the customized rates and services under an NSA but small enough to meet the \$100,000 revenue threshold set to receive lower Commercial Plus pricing. *Id.*

IV. COMMISSION ANALYSIS

The threshold issue raised by the Notice is whether it is properly filed under 39 C.F.R. § 3020.90 *et seq.* (Rule 90) as a minor classification change. Classification changes filed under Rule 90 are limited to changes that correct product descriptions in the MCS to ensure that product descriptions are accurate. See 39 C.F.R. §§ 3020.90

³ See proposed § 2303.4 (corresponding in other respects to § 2335.4 in the Commission’s draft MCS (online version dated 4/13/2013) and 2315.4. *Id.* Attachment at 2-3.

⁴ Public Representative Comments on Postal Service Notice of Minor Classification Change for Certain Commercial Plus Pricing Categories, April 8, 2013 (PR Comments).

and 3020.91. The proposed classification, while fairly characterized as relatively minor, does more than correct product descriptions. It expands eligibility for Commercial Plus pricing to Outbound International NSAs in two ways.

First, mail tendered under an Outbound International NSA may be used to satisfy the \$100,000 annual threshold required to qualify for Commercial Plus pricing.⁵

Second, because FCPIIS has not yet been incorporated into any of the Postal Service's Outbound International NSA products, the Postal Service seeks to make "the published Commercial Plus pricing for FCPIIS available to its International NSA customers." *Id.* at 1. The Postal Service states that "the change removes the potential for redundant threshold requirements by allowing the mail tendered under an International NSA to satisfy the \$100,000 per year commitment required to access Commercial Plus pricing." *Id.* at 1-2. The change is intended to become effective "as soon as this docket is concluded." *Id.* at 2.

The Commission has previously recognized that Rule 90 filings have been enlarged somewhat beyond a narrow interpretation of the rules. In general, the process has worked reasonably well, although the Commission has observed that it may be appropriate to amend its rules accordingly.⁶

⁵ Mailers who might never be eligible for Commercial Plus pricing may now be eligible because they can now use Outbound International NSA volumes to satisfy the threshold; thus the number of eligible mailers may increase. Outbound International NSA mailers who would otherwise satisfy the threshold without using NSA volumes will now reach the threshold more quickly. While that may result in average lower rates for certain mailers, it does not represent an expansion of Commercial Plus pricing.

⁶ See Docket No. MC2012-30, Order No. 1417, Order Approving Express Mail International Padded Flat Rate Envelope Option, July 25, 2012; Docket No. MC2011-24, Order No. 835, Order Regarding Commercial First-Class Package Service, August 31, 2011; and Docket No. MC2011-5, Order No. 667, Order Approving Mail Classification Changes, February 8, 2011.

To accommodate the filing and review of Postal Service notices of this nature, *i.e.*, where there may be some ambiguity as to which rule applies, the Commission intends to issue a notice of proposed rulemaking in the near future.⁷

Notwithstanding that the Notice was filed under 39 C.F.R. § 3020.90 *et seq.*, the Commission approves the proposed change. The proposed changes expand eligibility for Commercial Plus pricing and will not cause any product from complying with 39 U.S.C. § 3633(a).

The Public Representative's claim that the changes are unfair to mailers unable to qualify for an NSA is misplaced. Currently, the MCS provides that the \$100,000 annual threshold to qualify for Commercial Plus can be satisfied with "any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items." Notice, Attachment at 2-3. The proposed changes, which add Outbound International NSAs to that combination, do not disadvantage any current GXG, EMI, PMI, or FCPIIS mailer.

Moreover, the International Commercial Plus prices are rates of general applicability. See 39 U.S.C. § 3632(b)(2). The \$100,000 revenue threshold distinguishes those prices from Commercial Base prices. Making discounts contingent on satisfying a threshold (volume or revenue) incents mailers to send more mail than they might otherwise send or encourage mailers to maintain current volumes. The use of eligibility thresholds is a recognized rate design practice. The Commercial Plus threshold does not constitute an unreasonable distinction among customers. Mailers unable to qualify for Commercial Plus pricing may qualify for Commercial Base price, which also provides for discounts. That the discounts are somewhat less than for Commercial Plus mailers is not unfair. The difference simply reflects different eligibility

⁷ The Postal Service requested partial reconsideration of Order No. 1417. See Docket No. MC2012-30, Motion for Partial Consideration, August 1, 2012. The prospective rulemaking will resolve that issue. In the meantime, where an ambiguity exists as to the nature of the change and the rule that may apply, "public transparency would be better served if the Postal Service filed under 39 C.F.R. part 3015" rather than Rule 90. Order No. 1417 at 7.

criteria.⁸ Thus, the Postal Service provides opportunities for mailers to avoid paying higher retail rates. This mirrors other competitive markets where companies offer a variety of products and services at different prices to meet the needs of customers who have different demands.

V. MCS PROVISIONS

The Commission revises the draft MCS to reflect approval of the proposal, as shown in the Attachment to this order. The revisions use, as a base, the draft MCS (dated April 1, 2013) which is posted on the Commission's website.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Postal Service's planned classification changes concerning Outbound International NSAs appears to comply with 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.
2. The Postal Service shall promptly inform the Commission of the effective date of the proposed classification changes.

⁸ See, e.g., MCS § 2305.4 which states "Commercial Base – For selected destination countries, available for customers who prepare and pay for Global Express Guaranteed shipments via permit imprint when used in conjunction with Postal Service-supplied or other approved software, online at usps.com, or by using an authorized PC Postage vendor. The discount applies only to the postage portion of Global Express Guaranteed prices."

3. The draft Mail Classification Schedule will be modified as discussed in the body of this Order and as shown in the Attachment to this Order.

By the Commission.

Shoshana M. Grove
Secretary

Changes to the Draft Mail Classification Schedule (MCS)

(Additions are underlined and deletions are marked with strike-through)

PART B

COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

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2001 COMPETITIVE PRODUCT DESCRIPTIONS

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2300 International Products

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2305 Outbound International Expedited Services

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2305.4 Price Categories

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Global Express Guaranteed

- Commercial Plus
For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least \$100,000.00 per year of any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items. The discount applies only to the postage portion of Global Express Guaranteed prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the \$100,000.00 per year commitment.

- Price Groups 1-8

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Express Mail International

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- Commercial Plus
For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least \$100,000.00 per year of any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items. The discount applies only to the postage portion of Express Mail International prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the \$100,000.00 per year commitment.
- Price Groups 1-17

2315 Outbound Priority Mail International

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2315.4 Price Categories

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- Commercial Plus
For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least \$100,000.00 per year of any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items. The discount applies only to the Priority Mail International prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the \$100,000.00 per year commitment.
- Price Groups 1-17

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2335 Outbound Single-Piece First-Class Package International Service

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2335.4 Price Categories

- Commercial Plus
For selected destination countries, available for customers who use specifically authorized postage payment methods and must tender at least \$100,000.00 per year of any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items. The discount applies only to the postage portion of First-Class Package International Service prices. Mail tendered under an Outbound International Negotiated Service Agreement may be used to satisfy the \$100,000.00 per year commitment.
- Price Groups 1-9

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